

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RODERICK DUANE LEWIS,

Petitioner,

v.

CASE NO. 05-CV-74202
HONORABLE ARTHUR J. TARNOV

JERI-ANN SHERRY,

Respondent.

ORDER DENYING MOTION FOR RECONSIDERATION/REHEARING

This matter is before the Court on Petitioner's motion for reconsideration of the Court's order adopting the Magistrate Judge's Report & Recommendation as to habeas claims III, VI, and VI, which were previously held in abeyance. Those claims concerned a due process challenge to the trial court's deadlocked jury instruction and related issues of ineffective assistance of trial and appellate counsel.

A motion for reconsideration which presents issues already ruled upon by the court, either expressly or by reasonable implication, will not be granted. *See Hence v. Smith*, 49 F. Supp. 2d 547, 550 (E.D. Mich. 1999); *Czajkowski v. Tindall & Assoc., P.C.*, 967 F. Supp. 951, 952 (E.D. Mich. 1997). The Court finds no reason to reconsider its decision that the trial court's delay in disclosing the hung jury note did not result in constitutional error, that the trial court's deadlocked jury instruction was not unduly coercive under the totality of the circumstances, or that trial and appellate counsel were not ineffective. This is the appropriate result under the deferential standard of review set forth in *Harris v. Stovall*, 212 F.3d 940 (6th Cir. 2000), as well

as the *de novo* standard of review set forth in *Maples v. Stegall*, 340 F.3d 433 (6th Cir. 2003), and related cases. Petitioner has not met his burden of showing a palpable defect by which the Court has been misled or his burden of showing that a different disposition must result from a correction thereof, as required by Local Rule 7.1(g)(3).

Accordingly,

IT IS ORDERED that Petitioner's motion for reconsideration is **DENIED**.

S/Arthur J. Tarnow
Arthur J. Tarnow
United States District Judge

Dated: March 13, 2008

I hereby certify that a copy of the foregoing document was served upon counsel of record on March 13, 2008, by electronic and/or ordinary mail.

S/Catherine A. Pickles
Judicial Secretary